

REMARKS

Claims 1-8, 10 and 11 are pending in this application. Non-elected claims 4-8 and 11 are withdrawn from consideration by the Examiner. By this Amendment, claims 1, 4 and 5 are amended, claims 14 is added and claims 9, 12 and 13 are canceled. Support for the amendments to the claims and new claim 14 may be found, for example, in the original claims and in the specification at page 5, lines 1-5, page 16, line 23 to page 17, line 4, and Table 1. No new matter is added.

In view of the foregoing amendments and following remarks, reconsideration and allowance are respectfully requested.

I. Rejection Under 35 U.S.C. §112, First Paragraph

The Office Action rejects claims 1-3 and 10 under the written description requirement of 35 U.S.C. §112, first paragraph. Applicants respectfully traverse the rejection.

By this Amendment, claim 1 is amended to remove the language "the one of said poly-L-lactic acid and poly-D-lactic acid is bonded to the lamellar clay mineral to the exclusion of" and to recite "the other of said poly-L-lactic acid and said poly-D-lactic acid is not bonded to the lamellar clay material." Support for the amendments may be found in original claim 1. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

II. Rejection under 35 U.S.C. §112, Second Paragraph

The Office Action rejects claims 1-3 and 10 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants respectfully traverse the rejection.

By this Amendment, claim 1 is amended to remove the language "to the exclusion of." Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

III. Rejection Under 35 U.S.C. §103

The Office Action rejects claims 1-3 and 10 under 35 U.S.C. §103(a) over JP 2003-073538 to Mitsuru et al. (herein "Mitsuru") in view of U.S. Patent Application Publication No. 2005/0001349 to Yosimura et al. (herein "Yosimura") as evidenced by EP 0288041 to Ikada et al. (herein "Ikada"). Applicants respectfully traverse the rejection.

By this Amendment, claim 1 requires that "the stereocrystals ratio is greater than 70%." This claim feature is at least supported in the specification at Table 1, where the comparative examples all have ratios less than or equal to 70%, and the examples all have stereocrystals ratios of 100%. The specification discusses stereocrystals ratios at, for example, page 16, line 23 to page 17, line 4. For convenience, the following is a portion of that discussion:

The molded article of the present invention obtained in such a manner from the polylactic acid resin composition according to the present invention are preferably a molded article whose stereocrystals ratio $\{(\Delta H_m, \text{stereo})/(\Delta H_m, \text{homo} + \Delta H_m, \text{stereo})\} \times 100(\%)$, determined from a melting endotherm ($\Delta H_m, \text{homo}$) of a homocrystals melting peak and a melting endotherm ($\Delta H_m, \text{stereo}$) of a stereocrystals melting peak measured by the DSC measurement (differential scanning calorimetry), is preferably at least 0.9X%. Here, X is . . . two times the value which is a smaller one of the content (A%) of the poly-L-lactic acid and the content (B%) of the poly-D-lactic acid. . . . The higher ratio of the stereocrystals in the crystalline part of the obtained molded article brings about a tendency of the heat resistance of the molded article to be improved.

The combination of Mitsuru, Yosimura and Ikada fails to teach or suggest a polylactic acid resin composition in which the stereocrystals ratio is greater than 70%. That is, Mitsuru, Yoshimura and Ikada all fail to mention, and do not disclose a polylactic acid resin composition in which the stereocrystals ratio is greater than 70%.

In addition, Mitsuru fails to specifically teach that both optical isomers of lactic acid should be used to produce a polylactic acid resin composition. See Mitsuru, paragraph [0018]. Furthermore, Mitsuru fails to specifically teach that one of said poly-L-lactic acid and said poly-D-lactic acid is bonded to the lamellar clay material and the other of said poly-L-lactic acid and poly-D-lactic acid is not bonded to the lamellar clay material. Id. Yoshimura and Ikada fail to cure the deficiencies of Mitsuru.

Because the combination of applied references does not specifically teach that both optical isomers should be used to produce the resin composition whereas only one isomer is bonded to the lamellar clay material and the other is not, the combination of applied references would not have taught or suggested a polylactic acid resin composition having a stereocrystals ratio greater than 70%. As discussed in the specification at page 4, lines 19-28:

Although the reason for the stereocrystals selectivity to be remarkably improved according to a polylactic acid resin composition of the present invention is not necessarily convincing, the inventors infer as follows. That is, in the present invention, one of two kinds of polylactic acids (PLLA, PDLA) different in stereostructure is bonded to a lamellar clay mineral, resulting in [mobility] being restricted, and hence crystallization (homocrystallization) of the polyactic acid [bonded] to the lamellar clay mineral [is difficult]. As a result, crystallization between the free polylactic acid not [bonded] to the lamellar clay mineral and the polylactic acid different in stereostructure [bonded] to the lamellar clay mineral becomes [easier], resulting in remarkably improved selectivity of the stereocrystals.

Accordingly, Applicants respectfully submit that at least the claim feature that "the stereocrystals ratio is greater than 70%" is missing even if the references are combined, and such feature would not have otherwise been rendered obvious by the combination of applied references.

For at least these reasons, claim 1 would not have been rendered obvious by the combination of Mitsuru, Yosimura and Ikada. Claims 2, 3 and 10 depend from claim 1 and,

thus, also would not have been rendered obvious by the combination of Mitsuru, Yosimura and Ikada. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

IV. Rejoinder

Applicants also respectfully request rejoinder of non-elected method claims 4 and 5, and product claims 6-8 and 11. Where product and process claims are presented in the same application, Applicants may be called upon under 35 U.S.C. §121 to elect claims to either the product or process. MPEP §821.04. However, in the case of an elected product claim, rejoinder will be permitted when a product claim is found allowable and the withdrawn process claim depends from or otherwise includes all the limitations of an allowed product claim. *Id.* Because process claims 4 and 5 include all the limitations of product claim 1, the process claims 4 and 5 must be rejoined with the product claims when the product claims are found allowable.

Furthermore, where restriction was required between independent or distinct products, and all claims directed to an elected invention are allowable, any restriction requirement between the elected invention and any non-elected invention that depends from or otherwise requires all the limitations of an allowable claim should be withdrawn. Claims that require all the limitations of an allowable claim should be rejoined and fully examined for patentability in accordance with 37 CFR 1.104. *See* MPEP §821.04(a). Because claims 6-8 and 11 variously depend from elected product claim 1, claims 6-8 and 11 must be rejoined with the product claims when the product claims are found allowable.

Because the elected product claims are believed to be allowable for at least the reasons presented below, Applicants respectfully request withdrawal of the Restriction Requirement and rejoinder of claims 4-8 and 11.

V. New Claim

By this Amendment, new claim 14 is presented. New claim 14 depends from claim 1 and, thus, distinguish over the applied references for at least the reasons discussed above with respect to claim 1. Prompt examination and allowance of new claim 14 are respectfully requested.

VI. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the application are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Attachment:
Petition for Extension of Time

Date: March 31, 2009

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